

Commodity Futures Trading Commission,)	O4 CIV 3 04 0898
)	JUDGE ECHOLS
Plaintiff,)	
)	CONSENT ORDER OF DISMISSAL
v.)	OF CLAIMS AGAINST
)	DEFENDANT JOHN SHIRCK AND
Foreign Fund a/k/a First Bank, Ron Mealing,)	RELIEF DEFENDANTS WALLY
John Shirck, and Wolfgang J. Fastian,)	DOW AND MWFIRST INC.
)	
Defendants,)	
)	
Wally Dow, MW First Inc., MW First Trustees)	
Inc., Wolfgang J. Fastian, Deana Whitely, and)	
Star Connection Inc.,)	
)	
Relief Defendants.)	
)	
)	
)	

1. On October 5, 2004, the Commodity Futures Trading Commission (“Commission”) filed a Complaint (“Complaint”) in this matter alleging fraud and other violations of the Commodity Exchange Act, as amended (“Act”), and Commission Regulations (“Regulations”). The Complaint, in relevant part, named John Shirck (“Shirck”) as a defendant and Wally Dow (“Dow”) and MW First, Inc. (“MW First”) as relief defendants. On February 26, 2006, the Commission filed an Amended Complaint (“Amended Complaint”) that, with respect to Shirck, Dow and MW First, incorporated the same allegations and charges as set forth in the Complaint.

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3. On May 24, 2007 Shirck passed away.

4. On August 10, 2007, Bruce Shirck was appointed personal representative ("Administrator") for the Estate of John Shirck ("Shirck Estate").

5. The Administrator represents that he is empowered by Florida law to act as Administrator for the Shirck Estate. The Administrator also represents and warrants that he is authorized to sign and submit this Consent Order on behalf of both the Shirck Estate and MW First, and that no further consent or approval of any court or other person or entity is necessary to consummate [the Consents and Agreement set forth below/this Consent Order]. The Administrator has provided the Commission with official documents or records issued from a Florida state court with competent jurisdiction attesting to his powers as Administrator for the Shirck Estate.

6. Through this Consent Order, the Commission, Dow and the Administrator for the Shirck Estate intend to fully and resolve completely any and all existing claims between the Commission and a) Dow, b) Shirck and c) MW First, respectively, in accordance with the following terms and conditions.

II. CONSENTS AND AGREEMENT

In exchange for the agreement by the Commission to dismiss with prejudice the charges in the Amended Complaint against them, Dow and the Administrator of the Shirck estate, on behalf of Shirck and MW First, consent to the entry of this Consent Order of Dismissal ("Consent Order of Dismissal"). In addition, Dow and the Administrator of the Shirck Estate:

1. Affirm that each has read and agreed to this Consent Order voluntarily, and that no threat or promise has been made by the Commission or any member, officer, agent or representative thereof, or by any other person, to induce consent to this Consent Order, other than as set forth specifically herein; and

2. Waive:

a. All claims which may be available under the Equal Access to Justice Act (EAJA), 5 U.S.C. § 504 (2002) and 28 U.S.C. § 2412 (2002) to seek costs, fees, and other expenses relating to, or arising from, this action;

b. Any claim that they may possess under the Small Business Regulatory Enforcement Fairness Act, 1996 HR 3136, Pub. L. 104-121, §§ 231-232, 110 Stat. 862-63 (Mar. 29, 1996) based upon the institution of this proceeding or the entry in this proceeding of any order imposing a civil monetary penalty or any other relief;

c. Any claim of double jeopardy based upon the institution of this proceeding or the entry in this proceeding of any order imposing a civil monetary penalty or any relief; and

d. All rights of appeal from this action.

III. ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

Pursuant to Fed. R. Civ. Proc. 41(a)(2), all claims set forth in the Amended Complaint against Defendant John Shirck and Relief Defendants MW First, Inc. and Wally Dow are hereby DISMISSED with prejudice.



ROBERT L. ECHOLS
UNITED STATES DISTRICT JUDGE



Wally Dow, Relief Defendant

Date: 01-18-2008

Bruce Shirck, PERSONAL REPRESENTATIVE

Bruce Shirck, As
Administrator of Estate of John Shirck,
on behalf of John Shirck, Defendant, and
MW First, Inc., Relief Defendant
Date: 1/17/08

T. Kelly

Todd Kelly
Peter M. Haas
Attorneys for Plaintiff Commodity Futures Trading Commission
Date: 1/29/08